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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,983	06/07/2006	Richard Albang	GRT/4662-339	3944
23117 7590 03/14/2008 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
EXAMINER				
SAIDHA, TEKCHAND				
ART UNIT		PAPER NUMBER		
1652				
MAIL DATE		DELIVERY MODE		
03/14/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/524,983

**Applicant(s)**

ALBANG ET AL.

**Examiner**

Tekchand Saidha

**Art Unit**

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 and 25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-23 and 25 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)             |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-8508)           | 5) <input type="checkbox"/> Notice of Inventor's Patent Application |
| Paper No(s)/Mail Date: _____   | 6) <input type="checkbox"/> Other: _____                            |

***Election/Restrictions***

1. Restriction is required under 35 U.S.C. 121 and 372.
2. This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.
3. In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-12 & 17-19, drawn to an isolated polynucleotide encoding a lyopolytic enzyme and method of making the polypeptide recombinantly.

Group II, claim(s) 13-16 & 25, drawn to an isolated lyopolytic enzyme.

Group III, claim(s) 20, drawn to antibody to isolated lyopolytic enzyme.

Group IV, claim(s) 21, drawn to a fusion protein comprising lyopolytic enzyme.

Group V, claim(s) 22 & 23, drawn to process for the production of dough using the lyopolytic enzyme.

For each of inventions I-V above, restriction to one of the following is also required. Therefore, election is required of one of inventions I-V and one of sequences **(DNA or protein)** of (A)-(M), depending upon the elected group (as per Table 1, page 7 of the specification).

- (A). SEQ ID No: 1 & 2 (DNA) or a protein SEQ ID No: 3.
  - (B). SEQ ID No: 4 & 5 (DNA) or a protein SEQ ID No: 6.
  - (C). SEQ ID No: 7 & 8 (DNA) or a protein SEQ ID No: 9.
  - (D). SEQ ID No: 10 & 11 (DNA) or a protein SEQ ID No: 12.
  - (E). SEQ ID No: 13 & 14 (DNA) or a protein SEQ ID No: 15.
  - (F). SEQ ID No: 16 & 17 (DNA) or a protein SEQ ID No: 18.
  - (G). SEQ ID No: 19 & 20 (DNA) or a protein SEQ ID No: 21.
  - (H). SEQ ID No: 22 & 23 (DNA) or a protein SEQ ID No: 24.
  - (I). SEQ ID No: 25 & 26 (DNA) or a protein SEQ ID No: 27.
  - (J). SEQ ID No: 28 & 29 (DNA) or a protein SEQ ID No: 30.
  - (K). SEQ ID No: 31 & 32 (DNA) or a protein SEQ ID No: 33.
  - (L). SEQ ID No: 34 & 35 (DNA) or a protein SEQ ID No: 36.
  - (M). SEQ ID No: 37 & 38 (DNA) or a protein SEQ ID No: 39.
4. The inventions listed as Groups I-V and (A)-(M) do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical feature for the following reasons: The technical feature

linking Groups I-V and (A)-(M) appears to be that they all relate to lipolytic enzymes. According to the international preliminary examination report [IPER] claims 1-4, 9, 12 & 18 lack novelty as being anticipated by document D7 (WO 00/56762 A, 28 September 2000). D7 discloses an *Aspergillus niger* EST having 98.8 % identity with SEQ ID NO: 1 of the present application in 167 bp overlap (SEQ ID NO: 4074 of D7). This EST will hybridize with SEQ ID NO: 1 even under stringent hybridization conditions. Moreover, said polynucleotide has been cloned in a vector which has been used to transform a host cell. Therefore, the subject-matter of claims 1-4, 9, 12 and 18 (or presently amended claims 1-23 & 25) cannot be considered as novel over the teaching of D7 (article 33(2) PCT). Therefore, Groups I-V and (A)-(M) share no special technical feature as defined by PCT Rule 13.2, as it does not define a contribution over the prior art. Accordingly, Groups I-V and (A)-(M) are not so linked by the same or a corresponding special technical feature as to form a single general inventive concept.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

6. The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims that depend from or otherwise include all the limitations of the allowable product claim will be rejoined in accordance with the provisions of MPEP § 821.04. Process claims that depend from or otherwise include all the limitations of the patentable product will be entered as a matter of right if the amendment is presented prior to final rejection or allowance, whichever is earlier. Amendments submitted after final rejection are governed by 37 CFR 1.116; amendments submitted after allowance are governed by 37 CFR 1.312.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tekchand Saidha whose telephone number is (571) 272 0940. The examiner can normally be reached on 8.30 am - 5.00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nashaat Nashed can be reached on (571) 272 0934. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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March 3, 2008